

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

July 30, 2001

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Richard Huffman  
Clerk: D. E. Moore

**D037608        In re Michael B. et al., Juveniles**

Cause called on merits. M. Elizabeth Handy, Esq. argued for appellant. Christopher Blake, Esq. argued for the minor. Dee Dykeman, Deputy County Counsel argued for respondent. Ms. Handy replied. Mr. Blake replied. Cause submitted.

Court recessed at 9:55 a.m.

Court reconvened at 10:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

**D037567        Cruz v. Superior Court/People-RPI**

Matter called on merits. Todd Frederick Williams, Esq. argued for petitioner. Thomas F. McArdle, Deputy District Attorney argued for real party in interest. Mr. Williams replied.

Court adjourned at 10:30 a.m.

**D038237        Belvedere et al. v. Long et al.**

The appeal is dismissed.

**D035409        Quechan Indian Tribe v. County of Imperial et al.**

We reverse the judgment denying the petition for writ of mandate, and remand the matter to the trial court with directions to grant the petition for a preemptory writ of mandate vacating County's approval of the Felicity Plan and Pioneer Village project and specifying what actions by County are necessary to comply with CEQA with respect to the PEIR's water and archaeological analysis as stated in this opinion. The parties to bear their own costs on appeal. Haller, J.; We Concur: Kremer, P.J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

July 31, 2001

**D038300        In re Kelly on Habeas Corpus**

The petition is denied.

**D038299        In re Kelly on Habeas Corpus**

The petition is denied.

**D038169        In re Lewis on Habeas Corpus**

The petition is denied.

**D035991        Nautronix, Inc., et al. v. Certain Underwriters at Lloyd's, London et al.**

Summary judgment is reversed and the trial court is directed to enter a new order granting the motion for summary adjudication as to the malicious prosecution cause of action, and denying the motion for summary adjudication as to the breach of contract cause of action, and to conduct such further proceedings as appropriate. Costs to appellant. Huffman, Acting P.J.; We Concur: Nares, J., Haller, J.

**D038305        Jiminez v. Superior Court of San Diego County/People**

The petition is denied.

**D038304        Jiminez v. Superior Court of San Diego County/People**

The petition is denied.

**D036123        In re the Marriage of Sipe**

The judgment is affirmed. Kremer, P.J.; We Concur: Haller, J., McIntyre, J.

**D033946        People v. Bragg**

The convictions on counts one, two and three are affirmed. In all other respects the judgment and sentence are reversed and the matter is remanded for further proceedings consistent with this opinion. McDonald, J.; We Concur: Kremer, P.J., Haller, J.

**D038165        Tolouei v. Fenton et al.**

The appeal is dismissed as the notice of appeal was untimely.

**D037186        People v. Matlock**

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

August 1, 2001

**D035425        Jarrow Formulas, Inc., et al. v. Biogenesis, Inc., et al.**

The postjudgment orders are reversed and the matter is remanded to the trial court for appropriate further proceedings in accordance with the views expressed in this opinion. Each party is to bear its own costs on appeal. Huffman, J.; We Concur: Benke, Acting P.J., Nares, J.

**D038290        Leonard W. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Leonard W. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D038171        Nadia B. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Nadia B. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D037267        Villafana et al. v. Camco Pacific Construction Company, Inc., et al.**

The judgment is affirmed. Costs of appeal are awarded to the respondents. CERTIFIED FOR PUBLICATION. McIntyre, J.; We Concur: Nares, Acting P.J., Haller, J.

**D038418        In re York on Habeas Corpus**

The petition is denied.

**D038361        In re Davis on Habeas Corpus**

The petition is denied.

**D035148        People v. Applin**

The judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., Huffman, J.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

August 2, 2001

**D038166        Sherman v. The Superior Court of San Diego County/The People**

Let a peremptory writ issue directing the superior court to grant the request for certificate of probable cause. This opinion is effective immediately as to this court. (Cal. Rules of Court, rule 24(d).)  
Kremer, P.J.; We Concur: Huffman, J., McIntyre, J.

**D037273        Louvier v. Southern Sun Construction Company, Inc.**

Judgment affirmed. Respondent to recover its costs of appeal. Benke, Acting P.J.;  
We Concur: Huffman, J., Nares, J.

**D035066        People v. Brown**

The judgment is affirmed. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.;  
We Concur: Huffman, J., Nares, J.

**D036824        People v. Ellison**

The judgment (order dismissing the information) is reversed. Huffman, Acting P.J.;  
We Concur: McDonald, J., O'Rourke, J.

**D038412        Renee W. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied.

**D038231        Xelan Inc., et al. v. Superior Court of San Diego County/Goldstein et al.**

The petition is denied.

**D038366        Garcia v. The Superior Court of San Diego County/The People**

The petition is denied.

**D038446        In re Lang on Habeas Corpus**

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

August 3, 2001

**D037415 City of San Diego v. Superior Court of San Diego County/National Enterprises, Inc.**  
The petition is denied.

**D038006 Kawesch v. The Superior Court of San Diego County/Sandback et al.**  
The petition is denied.

**D038076 Good Guys! Inc. v. The Superior Court of San Diego County/Christensen**  
The petition is denied.

**D037893 People v. Mosti**  
Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

**D038375 Ruffin Road Office Park v. Superior Court of San Diego County/La Salle Bank National Association**  
The petition is denied. Petitioner has an adequate remedy by way of appeal.

**D034809 Opdycke v. Shumate et al.**  
The petition for rehearing is denied.

**D036816 Miller v. Applegate**  
Because the record on appeal does not contain all the documents needed to resolve the questions raised on appeal, the court has ordered that the superior court file and exhibits be transferred to it. (Cal. Rules of Court, rules 10 (d), 12(a).) Because the record is incomplete, the order submitting the case is vacated and the matter will be resubmitted upon receipt of the superior court file and exhibits.

**D036527 KFJ, Inc. v. Wali et al.**  
The judgment is reversed. The superior court is directed to vacate and set aside the judgment and dismiss the action with prejudice. The parties shall bear their own costs on appeal. Huffman, Acting P.J.  
We Concur: McIntyre, J., O'Rourke, J.

**D037468 In re Anna M., a Juvenile**  
The judgment is affirmed. Haller, J.; We Concur: Kremer, P.J., McDonald, J.

**D038360 Rosenthal v. Superior Court of San Diego County/People**  
The petition is denied.

**D038369 Torres v. Superior Court of San Diego County/State of California**  
The petition is denied.

**D038376 In re Smith on Habeas Corpus**  
The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

August 3, 2001 (Continued)

**D038374            In re Gilhousen on Habeas Corpus**

The petition is denied.

**D038333            In re Polselli on Habeas Corpus**

The petition is denied.

**D036823            People v. Gutierrez**

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.